

REMARKS

Claims 1-5 and 26-55 are currently pending in the subject application and are presently under consideration. Claim 1 has been amended as shown on p. 2 of the Reply. Claims 6-25 have been canceled. Claims 26-55 are new claims as shown on pp. 3-8 of the Reply. Some of cancelled claims 6-25 are newly presented within new claims 26-55, as described in additional detail below.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

2-20-09 Telephonic Examiner Interview

Initially, Applicants would like to gratefully acknowledge and thank the Examiner for the time taken to discuss the outstanding rejections. In this regard, Applicants' representative contacted Examiner Tecklu to discuss the objections to the application and the rejections under 35 U.S.C. §101 and §102. While the presented matter generally related to all claims, the focus was upon previously amended independent claims 1, 6, 18, 21, 23, and 24. While claims 6, 18, 21, 23, and 24 have been cancelled since the interview, Applicants impart that new claims 30, 45, 48, 51, and 53 reiterate at least a portion of the claimed subject matter of canceled claims 6, 18, 21, 23, and 24.

In more detail, the claim element of "at least one processor communicatively coupled to the user interface for carrying out computer executable instructions in connection with user interface processes" was discussed to address the §101 rejection of previously amended and now canceled claim 6, Applicants instruct that this element is now located in claim 30. The claim element of "at least one processor for executing computer executable instructions for presenting application issue data" was discussed to address the §101 rejection of claims previously amended and now canceled claims 23 and 24, Applicants indicate that this element is now located in claims 51 and 53. In this regard, Applicants gratefully acknowledge Examiner Tecklu indication that he would withdraw the §101 rejection directed to claims 6-17, 23 and 24 upon reconsideration.

The claim element of "where the data interface is configured to allow an ISV access to at least one aggregated application issue data associated with one or more of the ISV's

applications” was also discussed to address the §102(b) rejection of claim 1. The claim element of “a login credentials pane, where entry of credentials allows access to aggregated application issue data” was discussed to address the §102(b) rejection of previously amended and now canceled claim 6. Applicants impart that this element is now located in claim 30. The claim element of “aggregating application issue data such that at least one application issue data attributed to a particular ISV is accessible through a login protocol” was discussed to address the §102(b) rejection of previously amended and now canceled claims 18 and 21. Applicants direct that this element is now located in claims 45 and 48. The claim element of “means for aggregating application issue data such that at least one application issue data attributed to a particular ISV is accessible through a login protocol” was discussed to address the §102(b) rejection of previously amended and now canceled claims 23 and 24. Applicants indicate that this element is now located in claims 51 and 53.

Applicants further gratefully acknowledge Examiner Tecklu’s indication, pending further search and consideration, that the distinctions discussed with regard to the above-identified elements and discussed in more detail below overcome the §102(b) rejection and the cited sections of Othmer (US 6,266,788 B1). The interview was conducted by Steven Gaulding (Reg. No. 63,620) and Examiner Tecklu on February 20, 2009.

I. Objection to Disclosure

The disclosure is objected to because the specification is allegedly devoid of terms such as “apparatus” as recited in claims 23-24. Claims 23-24 have been canceled. Applicants instruct that claims 51 and 53 reiterate a portion of the claimed subject matter of canceled claims 23-24. In light of the reiteration, Applicants respectfully submit that support for the term “apparatus” can be found amply in the specification as-filed. The term apparatus is used as a broad term encompassing various embodiments that are *inherently* disclosed (under the Doctrine of Inherency) in other parts of the specification. For example, an apparatus is known as a device designed for a specific operation or purpose. In this regard, claim 51 recites an apparatus for presenting the aggregated application issue data visually to the developer of the one or more software applications. As example support for an apparatus, paragraph [0032] articulates the devices that carry out the presentation of application issue data. More specifically, paragraph [0032] articulates that a set of databases 202 store application issue data, a portal server 207, and

a network 209 embody the apparatus that carries out the presentation of application issue data. Paragraph [0036] discloses that the portal server 207 collects the application issue data from the set 202 of data bases and presents that data to independent software developers. The devices that embody the apparatus of claim 51 are supported in the specification as-filed.

It is also noted that claim 51 as filed included the term apparatus and the as-filed claims are considered part of the original disclosure of the specification. Accordingly, reconsideration and withdrawal of the objection to the term “apparatus” as used in the claims is respectfully requested.

The disclosure is also objected to because the specification is allegedly inconsistent with terms recited in claims 10-16. Claims 10-16 have been cancelled. The objection being moot, reconsideration and withdrawal of the objection is respectfully requested.

II. Rejection of Claims 6-17 and 23-24 Under 35 U.S.C. § 101

Claims 6-17 and 23-24 stand rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. Claims 6-17 and 23-24 have been cancelled. However, Applicants direct that claims 30-44 and 51-54 reiterate a portion of the claimed subject matter of canceled claims 6-17 and 23-24. In this regard, independent claims 30, 51 and 53 have been amended herein to address the rejection. Claims 31-44 depend from claim 30, claim 52 depends from claim 51, claim 54 depends from claim 53 and should be considered statutory for at least the same reasons. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 101 is respectfully requested.

III. Rejection of Claims 1-19 and 21-25 Under 35 U.S.C. § 102(b)

Claims 1-19 and 21-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Othmer et al. (US 6,266,788 B1) – hereinafter referred to as Othmer. Claims 6-19 and 21-25 have been canceled. However, Applicants indicate that claims 30-55 reiterate a portion of the claimed subject matter of canceled claims 6-19 and 21-25. This rejection should be withdrawn for at least the following reasons. Othmer does not disclose or suggest each and every aspect set forth in the amended subject claims.

A single prior art reference anticipates a patent claim only if it *expressly or inherently describes each and every limitation set forth in the patent claim.*

Trintec Industries, Inc. v. Top-U.S.A. Corp., 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 817 F.2d 628, 631, 2USPQ2d 1051, 1053 (Fed. Cir. 1987). The ***identical invention must be shown in as complete detail as is contained in the ... claim.*** *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

In this regard, a portal server is set forth in claim 1 comprising of “an aggregation module for aggregating the application issue data ...and ... present[s] to at least one or more ISV application developers a customizable user interface that presents the aggregated application issue data regarding the one or more applications associated with that ISV and omits the application issue data for applications not associated with that ISV.” The “data interface for accessing a plurality of application issue data sources for obtaining application issue data regarding one or more applications associated with a plurality of independent software vendors...”

Othmer fails to disclose the claimed subject matter of claim 1. Othmer discloses at col. 2, lines 40-42, “[t]he invention provides a system and method for automatically classifying a data set received from a computer-based system.” Othmer, at col. 4, line 65 to col. 5, line 8, discloses the type of data categorized in the data set, namely “information about the state of the computer-based system at a particular time or when a particular incident occurs, ...the events ... that occurred on the monitored computer-based system prior to the incident [, and] ...any combination of information in the data set which indicates a particular incident occurred.” Othmer discloses at col 2, lines 42-45, “...the information in a data set which corresponds to an incident, such as a software or hardware crash, may be classified by any combination of the information in the data set.” Othmer discloses at col. 2, lines 47-50 that “...the information in each piece of data is analyzed to determine if a particular piece of data relates to a previously reported software of hardware bug and classify the piece of data accordingly.” Othmer discloses at col 4, lines 21-26, that “a server 32 may monitor a plurality of computer-based systems 34 to receive a plurality of data sets 44, the automatic classification and categorization system and method in accordance with the invention may also receive the data set from a single computer-based system or any other source.”

In contrast, claim 1 recites a portal server that comprises of “a data interface for accessing a plurality of application issue data sources for obtaining application issue data regarding one or

more applications associated with *a plurality of independent software vendors*... where the data interface is configured to allow an ISV access to at least one aggregated application issue data associated with one or more of the ISV's applications." Othmer's above-mentioned disclosures do not disclose allowing a plurality of ISVs access to a portal server. Othmer discloses at col. 8, line 45-46 "generate[ing] a visual display for *the* user of the server ..." Othmer does not disclose the server allowing a plurality of users access to the server.

In view of at least the aforementioned reasons, Othmer does not disclose each and every element of claim 1 and thus reconsideration and withdrawal of the rejection is respectfully requested. Moreover, claims 2-5 depend from claim 1 and are believed allowable for at least the same reasons.

Claim 30 of Applicants' claimed subject matter recites a user interface comprising "a login credentials pane, where entry of credentials allows access to aggregated application issue data."

Othmer fails to disclose the claimed subject matter of claim 30 in at least this respect. Othmer discloses at col. 2, lines 40-42 "a system and method for automatically categorizing and characterizing the data sets generated by a computer-based system." Othmer discloses at col. 8, line 45-48, that "the server may generate a visual display for the user of the server indicating the distribution of different incidents so that the incidents may be assigned to various engineers in the company." Othmer's disclosure of assigning incidents to various engineers does not disclose "a login credentials pane, where entry of credentials allows access to aggregated application issue data," as recited in claim 30.

In view of at least the aforementioned reasons, Othmer does not disclose each and every element of claim 30. Moreover, claims 31-44 depend from claim 30 and are believed allowable for at least the same reasons.

Claim 45 recites a method comprising "aggregating application issue data such that at least one application issue data attributed to a particular ISV is accessible through a login protocol..." As such, Othmer fails to disclose at least this recitation of claim 45.

Othmer discloses at col. 8, line 45-48, that "the server may generate a visual display for the user of the server indicating the distribution of different incidents so that the incidents may be assigned to various engineers in the company." Othmer's disclosure of assigning incidents to various engineers does not disclose a method of "aggregating application issue data such that at

least one application issue data attributed to a particular ISV is accessible through a login protocol,” as recited in claim 45.

In view of at least the aforementioned reasons, Othmer does not disclose each and every element of claim 45. Moreover, claims 46, 47, and 49 depend from claim 45 and are believed allowable for at least the same reasons.

Claim 48 of Applicants’ claimed subject matter recites a comprising “aggregating application issue data enabling at least one application issue data attributed to a particular ISV to be accessible through a login protocol...” As such, Othmer fails to disclose at least this recitation of claim 48.

Othmer discloses at col. 8, line 45-48, that “the server may generate a visual display for the user of the server indicating the distribution of different incidents so that the incidents may be assigned to various engineers in the company.” Othmer’s disclosure of assigning incidents to various engineers does not disclose a method of “aggregating application issue data such that at least one application issue data attributed to a particular ISV is accessible through a login protocol,” as recited in claim 21.

In view of at least the aforementioned reasons, Othmer does not disclose each and every element of claim 48. Moreover, claim 50 depends from claim 48 and is believed allowable for at least the same reasons.

Claim 51 of Applicants’ claimed subject matter recites an apparatus comprising “means for aggregating application issue data such that at least one application issue data attributed to a particular ISV is accessible through a login protocol...” As such, Othmer fails to disclose at least this recitation of claim 51.

Othmer discloses at col. 8, line 45-48, that “the server may generate a visual display for the user of the server indicating the distribution of different incidents so that the incidents may be assigned to various engineers in the company.” Othmer’s disclosure of assigning incidents to various engineers does not disclose “a means for aggregating application issue data such that at least one application issue data attributed to a particular ISV is accessible through a login protocol,” as recited in claim 51.

In view of at least the aforementioned reasons, Othmer does not disclose each and every element of claim 51. Moreover, claim 52 depends from claim 51 and is believed allowable for at least the same reasons.

Claim 53 of Applicants' claimed subject matter recites an apparatus comprising "means for aggregating application issue data such that at least one application issue data attributed to a particular ISV is accessible through a login protocol." As such, Othmer fails to disclose at least this recitation of claim 53.

Othmer discloses at col. 8, line 45-48, that "the server may generate a visual display for the user of the server indicating the distribution of different incidents so that the incidents may be assigned to various engineers in the company." Othmer's disclosure of assigning incidents to various engineers does not disclose "aggregating application issue data such that at least one application issue data attributed to a particular ISV is accessible through a login protocol," as recited in claim 53.

Othmer fails to disclose the claimed subject matter of claim 53. Othmer does not disclose an apparatus comprising of a means for aggregating application issue data such that application issue data attributed to a particular ISV are accessible through a login protocol. In view of at least the aforementioned reasons, Othmer does not disclose each and every element of claim 53. Moreover, claim 54 depends from claim 53 and is believed allowable for at least the same reasons.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [VMAPP101US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Steven Gaulding or Applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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